

Reasonable Doubts: **Is the U.S. Executing Innocent People?**

October 26, 2000

A Preliminary Report
of the

GRASSROOTS INVESTIGATION PROJECT



EQUAL JUSTICE USA

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Introduction

“I cannot support a system, which, in its administration, has proven to be so fraught with error and has come so close to the ultimate nightmare, the state’s taking of innocent life.”

– Governor George Ryan, on declaring a moratorium in Illinois¹

The administration of the death penalty in the United States is plagued by injustice. The proof has become irrefutable. Individuals are being sentenced to death for crimes they did not commit. While some of these individuals are being exonerated and released, others are likely being executed.²

Mounting evidence of unfairness has become so compelling that some death penalty supporters, such as Illinois Governor George Ryan, can no longer ignore it. In January of this year, Governor Ryan announced a moratorium on executions in the state, just days after Illinois’ thirteenth death row inmate was exonerated.³ In so doing, Illinois became the first U.S. jurisdiction to suspend executions while it examines the administration of the death penalty.

This report marks the first national effort to document and expose cases of people executed despite compelling evidence of their innocence since executions resumed in the U.S. in 1977. It is released in a climate that is increasingly hostile to efforts to re-open or investigate cases in which people have been executed for crimes they probably didn’t commit.⁴

The report highlights the cases of 16 individuals who were executed by the states of Alabama, California, Florida, Illinois, Missouri, Texas, and Virginia in the face of exculpatory evidence and evidence of rights violations. In all of these cases, the state and federal courts had every opportunity to interrupt the process and determine whether the original conviction was wrong, but they failed to do so. These cases are a part of an alarming trend in the administration of justice in the U.S. in which the

¹ January 31, 2000 Press Release, Office of Governor George Ryan. (See www.state.il.us/gov/press/00/Jan/)

² Once death row inmates have been killed, it becomes very difficult to absolutely prove their innocence. In these cases, the weight of the trial and appeals process has been stacked against them. New evidence has not been tested by a court of law. New witnesses have not had the opportunity to be examined and cross-examined.

³ Since Illinois reinstated the death penalty in 1977, more people on death row have been exonerated than have been executed. Nationwide, nearly 90 death row prisoners have been proven innocent. For every seven people executed, one is set free because they were found innocent. (Death Penalty Information Center, www.deathpenaltyinfo.org)

⁴ The rape kit in the case of Joseph Odell – executed in 1997 for a brutal rape and murder – was destroyed by the state on March 30 of this year. The Catholic Diocese of Richmond and members of Odell’s family had sought DNA testing after the state had refused Odell’s request for the testing just prior to his execution. The state successfully blocked the test, convincing the state Supreme Court that it was not in the state’s interest to prove that an innocent man had been executed. Currently, *The Boston Globe* and Centurion Ministries are seeking DNA testing of vaginal swab samples taken from Wanda McCoy, whose rape and murder resulted in Roger Coleman’s execution in Virginia in 1992. Coleman’s case is profiled in this report. Again the state is opposing new tests, arguing the public does not have a “right to know” the truth. In a hopeful sign, *The Boston Globe*, *The Atlanta Constitution*, CBS, and the *Macon Telegraph* have won the first court order in the country for post-execution DNA testing in the Georgia case of Ellis Wayne Felker. (See “Two Seek Post-Trial DNA Tests,” April 24, 2000, A-1 and “State objects to more testing; DNA work sought on executed man,” October 7, 2000, both in *The Richmond Times Dispatch*.) Clearly, the battle to re-examine cases where potentially innocent defendants were executed is only just beginning.

courts overwhelmingly favor efficiency and rigid procedural rules over justice and constitutional protection. This trend has created a system of arbitrary justice and has left a trail of arbitrary executions in its wake.

Methodology

This report is based on five months of research conducted by a network of activists and lawyers as part of the Grassroots Investigation Project. The Project is an ongoing effort to document and investigate cases where there is compelling evidence of innocence and due process violations. The researchers have employed a case study methodology, in which they have relied on individual cases to highlight widespread patterns and practices of the state that lead to the violation of rights and may lead to the execution of innocent people.

All 16 cases contained in this report were selected based on the compelling nature of the evidence of innocence. Additional criteria used to select cases included the exemplary nature of the cases; all of the cases demonstrate widespread and recurrent defects in the administration of the death penalty. Using criteria for review developed by the Center on Wrongful Convictions at Northwestern University School of Law, trial, appellate, and investigative documents were compiled and analyzed. This information, as well as information obtained through independent investigations in some cases, formed the basis of the case studies and the charts that were developed for each of the cases. (See appendix for charts on cases included in this report.)

This report represents only a small number of the actual cases in which people have been executed for crimes they probably did not commit. The project's research into such cases is ongoing.

Findings

In each of the 16 cases profiled in this report, there exists compelling evidence that the defendant was convicted of the crime he did not, in fact, commit. Viewed collectively, these 16 cases highlight patterns and practices in the administration of justice at the state and federal levels that violate constitutionally and internationally protected rights. Abuses that led to rights violations included the following.

Defense attorneys routinely failed to provide their clients with competent legal counsel.

In all 16 cases, the defendant was convicted and sentenced to death at a trial that did not conform to basic standards of fairness and due process. The lack of competent counsel undermined the right to a fair trial. There was compelling evidence that the defense attorneys failed to perform their duties to their clients with adequate competence. Defense attorneys, most of whom were appointed by the court, routinely failed to mount a defense, to investigate, to produce witnesses that could testify to the defendant's innocence or challenge the prosecution's evidence, to comply with court deadlines, to object to illegal or improper conduct, or to preserve evidence and issues for appellate review.

Prosecutors and police routinely engaged in misconduct during investigations and trials.

In all of the cases, there was compelling evidence of official misconduct and abuse committed at the investigation and trial stage. Suppression of exculpatory evidence was common. Prosecutors frequently relied on a single eyewitness or on jailhouse informants – sources shown to be unreliable. In some cases, witnesses were intimidated or offered deals for testifying. Confessions were obtained through coercion, force, threats, and even torture and then used to convict defendants despite the illegal means utilized to obtain the confessions. Line-ups were prejudicial and leading in many cases. In at least one case, evidence was probably planted.

Racial bias fueled the actions of police, prosecutors, defense attorneys, and judges.

People of color are disproportionately represented on U.S. death rows. Furthermore, the race of the victim is a principle determinant in sentencing offenders to death. The combination of an African American defendant and a white victim is most likely to result in a death sentence. In these 16 cases, only one of the crime victims was black and 16 were white. Nine of the executed men were African American.

In every case in which an African American was the defendant, racial discrimination was a determining factor in the conviction. In many cases, prosecutors excluded jurors based on race, a practice found to be an unconstitutional form of racial discrimination by the U.S. Supreme Court in 1986 (*Batson v. Kentucky*). In some cases, lawyers – both for the prosecution and defense – used racist language to inflame the jury. In at least one case, the judge and prosecutor were later found to have engaged in persistent racial discrimination.

State and federal appellate courts failed to intervene in cases with compelling evidence of innocence and evidence of rights violations.

In all of the cases, the decision of the trial court was appealed based on due process violations and, in some cases, on compelling evidence of innocence. In most of the cases, evidence of innocence was never heard in any court because it surfaced only after the original trial. In most cases, appeals were repeatedly denied without re-hearing, irrespective of the evidence. This was largely a result of strict appellate review standards and inflexible time limits. These include restrictions on federal courts' ability to review convictions as mandated by the 1996 Anti-Terrorism and Effective Death Penalty Act and state time limits for the introduction of new evidence after sentencing.

The existence of innocence claims and the evidence to support these claims render the related allegations of unfairness and lack of due process particularly alarming. In all of the cases, both state and federal courts had every opportunity to remedy the rights violations but did not. Both state and federal courts failed to protect the rights enshrined not only in state constitutions and the Constitution of the United States, but also in international law. Courts overwhelmingly favored procedure over justice and efficiency over fairness. And, in so doing, state and federal governments sanctioned state killing of men who were probably innocent.

Conclusion

The definitive nature of the death penalty requires the highest standards of due process and fairness. The findings of this report suggest that while such standards exist in law, they do not exist in practice. Death penalty states, through the police, the state prosecutors' offices, court-appointed defense attorneys, and the judicial system, routinely fail to exercise necessary diligence to ensure the protection of the rights of the accused. Federal courts, which have been limited by the Anti-Terrorism and Effective Death Penalty Act of 1996, fail to exercise the necessary oversight to provide remedies for rights violations in death penalty cases. As such, state governments, with the acquiescence of the federal government, are executing people under the guise of due process and fair trials, despite compelling evidence of innocence.

Recommendations

There is an emerging national consensus that the administration of the death penalty in the U.S. is in dire need of reform. After many years of deep cuts to indigent defense funding and radical restrictions on prisoner appeals, the pendulum is beginning to swing in the other direction. Reforms are now being proposed at the state and national level. Measures like the Innocence Protection Act,⁵ now pending before Congress, could lessen the risk of executing innocent people by increasing compensation, training, and oversight of defense counsel and by making DNA testing available to death row prisoners.

The proposed reforms, however, only address the first finding of this report. They do not address the reluctance of state and federal appellate courts to review and/or intervene when faced with cases with compelling evidence of innocence or rights violations. Furthermore, the proposed remedies do not address racial bias and prosecutorial misconduct.⁶ Officially, neither the state nor federal governments acknowledge that innocent people are being executed. The necessary first step to meaningful reform is a time-out on executions that allows time, space, and resources for independent evaluations of the state and federal governments' administration of the death penalty.⁷

⁵ On February 11, 2000, Senator Patrick Leahy (D-VT) introduced the Innocence Protection Act in the Senate (S.R. 2073). Reps. Ray LaHood (R-IL) and William Delahunt (D-MA) introduced the same bill in the House (H.R. 4167). This legislation would allow prisoners on death row to request DNA testing on evidence from their case that is in the government's possession and provide mechanisms to guarantee defendants access to a professional and experienced lawyer. Laws allowing DNA testing have also been introduced in various states.

⁶ A recent Columbia University study revealed that state and federal courts found grave constitutional error in two-thirds of the cases they reviewed between 1973-1995. Of these errors, 19% involved police or prosecutors suppressing exculpatory evidence and another 19% involved coerced confessions, use of jailhouse informants, exclusion of black jurors, and other official abuses of power. (See *A Broken System: Error Rates in Capital Cases, 1973-1995*, James Liebman, Columbia University School of Law, June 2000, available at www.thejusticeproject.org)

⁷ Currently, legislation is pending in Connecticut, Kentucky, Missouri, New Jersey, Ohio, and Pennsylvania that would impose moratoria while issues of fairness are studied: HB5051 in Connecticut, SB325 in Kentucky, SB838 in Missouri, A1853 in New Jersey, HB733 in Ohio, SB952 in Pennsylvania. Over the last two years, 14 states have considered bills that would impose a moratorium on executions while issues of fairness are studied.

Similar national legislation has been introduced in Congress that would temporarily halt state and federal executions and would commission a national inquiry. On April 24, 2000, Senators Russ Feingold (D-WI) and Carl Levin (D-MI) introduced into the Senate the National Death Penalty Moratorium Act of 2000 (S.R. 2463). It would impose a moratorium on state and federal executions and establish a National Commission on the Death Penalty to review current administration and make recommendations for ensuring it is imposed fairly and with due process. On February 11, 2000, Rep. Jesse

Based on the findings of this report, the Grassroots Investigation Project of Equal Justice, USA recommends the following in order to protect the rights of individuals and to ensure that innocent people are not executed:

- **State and federal governments should impose immediate moratoria on executions and should constitute independent bodies to study the administration of the death penalty.**
- **State and federal governments should investigate alleged cases in which people have been executed for crimes they did not commit.**
- **State and federal governments should consistently provide compensation to individuals, or the families of individuals, who have been wrongfully convicted or wrongfully executed.**

Jackson Jr. introduced into the House the Accuracy in Judicial Administration Act of 2000 (H.R. 3623). This House bill would impose a seven-year moratorium on executions to allow death row prisoners time to explore potentially exculpatory evidence, including DNA.

Appendices

(Case Charts)

Brian K. Baldwin (AL)

Name/DOC #	Brian Keith Baldwin Z-357
Address	Holman Unit, Atmore AL /Deceased
Date of Birth	July 16, 1958
Race	Black
Date of Crime	March 14, 1977
Age at Time of Crime	18
Date Sentenced	August 8, 1977
Victim(s)	Naomi Rolon, age 16
Relationship to Defendant	Picked up defendant and companion hitchhiking in North Carolina 3 days prior to murder in Alabama
Facts Alleged by State	Murder/stab wounds and cut throat, presumably with axe or hatchet; robbery of car
County of Trial	Monroe County AL
Trial Judge	Robert E. Lee Key
Trial Attorney	Windell Owens
Prosecutor(s)	Theodore Pearson
Trial By	Jury
Race of Jurors	All White
Convicted of	Capital murder; robbery of auto
Confession	Yes/coerced
Accomplice Testimony	Not at original trial
Eyewitness Testimony	No
Forensic Testimony	<ul style="list-style-type: none"> ● Fingerprints in victim's car ● Semen present (but rape not charged) ● No blood on Baldwin's clothes or shoes
Jailhouse Snitch	No
Defendant Testimony	<ul style="list-style-type: none"> ● Coerced confessions both signed and taped ● On stand at trial, Baldwin denied having made a voluntary confession
Principal Exculpatory Evidence	<ul style="list-style-type: none"> ● No fingerprints on murder weapon ● No blood on clothes or shoes ● Forensic pathologist report that wounds were inflicted by left-handed person; Baldwin was right-handed. (Not available at trial; presented in 1999 investigation.)
Sentencing Authority	Jury, subject to judge override
Statutory Aggravating Factor	Robbery of car
Non-Statutory	None

Aggravating Factor	
Mitigating Factors	None presented except age
Mental Illness, retardation or neurological damage	No
Criminal History	<ul style="list-style-type: none"> • Escaped from youth detention center in North Carolina; car theft offenses • Concurrent conviction for stealing car in Camden, AL just before the murder
Appellate History	<ul style="list-style-type: none"> • George Elbrecht (Monroeville) † appeals Judge Key (Mobile) † coram nobis • Michael McIntyre (Atlanta) Federal Habeas (404-688-0900)
Ineffective Assistance?	<p>Yes</p> <ul style="list-style-type: none"> • Attorney only met with Baldwin for total of 20 minutes before trial • No investigation (judge denied funds) and no witnesses called • No presentation of exculpatory evidence in forensic report • Parents not informed of his whereabouts • No challenge to striking Blacks from jury • No challenge to Judge referring to Baldwin as "boy" • No challenge to Baldwin being in handcuffs and shackles during jury selection, in view of prospective jurors
Police Misconduct?	<p>Yes</p> <ul style="list-style-type: none"> • Torture during interrogation by beatings, probable use of cattle prod • Probable denial of right to counsel prior to interrogation <p>(During 1999 investigation, three witnesses attested to having seen bruises on Baldwin's back and legs following interrogation. A former Deputy Sheriff signed an affidavit and gave a video-taped deposition attesting to presence of a cattle prod in the jail where Baldwin was questioned, and to having been present when Baldwin was beaten during the interrogation. Deputy also signed an affidavit attesting to having falsely signed a statement saying he had witnessed Baldwin's signature to a waiver of his right to counsel. This Deputy, who had been the first Black appointed as Deputy Sheriff in the county, later retracted his testimony regarding the beatings in a private interview with the Governor of Alabama)</p>
Prosecutorial Misconduct?	<p>Yes</p> <ul style="list-style-type: none"> • Rape implied, although no charge of rape was ever brought • Racist practice in striking all Blacks from jury • Failure to provide a complete trial transcript <p>(State claimed transcript had been lost in a flood, and denied existence of tapes; later an incomplete transcript was found and furnished. During investigation in 1999, tapes were discovered, and found to differ from the transcript provided.)</p>
Newly Discovered Exculpatory Evidence?	<p>Yes</p> <ul style="list-style-type: none"> • Forensic pathologist signed affidavit based on crime-scene photos stating fatal wounds had been inflicted by a left-handed person. Baldwin was right-handed.

Failure of Judicial Process?	Yes <ul style="list-style-type: none"> ● Change of venue denied despite intense pre-trial publicity ● Newly discovered exculpatory evidence and evidence of police misconduct denied fair presentation in appeal process ● All physical evidence which could have furnished relevant DNA evidence was lost or destroyed (discovered in 1999 investigation).
Appellate Counsel	George Elbrecht of Monroeville, AL

Cornelius Singleton (AL)

Name/DOC #	Cornelius Singleton
Address	Holman Prison/Deceased November 20, 1992
Date of Birth	April 14, 1956
Race	Black
Date of Crime	November 12, 1977
Age Time of Crime	21
Date Sentenced	July 1978
Victims	Sister Ann Hogan
Race of Victims	White
Relationship to Defendant	None
Facts Alleged by State	Murder and robbery of Sister Ann Hogan in Catholic Cemetery in Mobile, AL
County of Trial	Mobile
Trial Judge	Ferrill D. McRae
Trial Attorney	Reggie Stephens & Mike Scheuermann (Mobile) 1978; Gary Porter Mobile
Prosecutors	Charles Graddick
Trial By	Jury
Race of Jurors	White
Convicted of	Capital murder-sentenced to death
Confession	Coerced and dictated by prosecutor
Accomplice Testimony	No
Eyewitness Testimony	Yes, of other suspects, mainly a white man with long blonde hair
Forensic Testimony	None to implicate Singleton. <ul style="list-style-type: none"> • No fingerprints of his in stolen truck or at crime scene • Blood on blouse of nun with outline of hand on back of blouse—no testing
Jailhouse Snitch	Someone Singleton referred to as Pootenany put in cell with him to get confession
Defendant Testimony	No-wanted to testify about his innocence
Principal Exculpatory Evidence	<ul style="list-style-type: none"> • IQ of 55-67 • Mental age of seven • Waived Miranda rights without knowing • Coerced, dictated confession • Girlfriend put on his lap during confession • Illiterate and signed confession thinking he was confessing to stealing sheets • Could not drive standard shift truck
Sentencing Authority	Jury (judge had override)
Statutory Aggravating Factor	Theft of victim's watch
Non-Statutory Aggravating Factor	Previous record
Mitigating Factors	IQ, illiteracy, waiving of rights, coerced confession
Evidence of Mental Illness Retardation and or Neurological Damage	Retardation
Criminal History	<ul style="list-style-type: none"> • 1972—sentenced to 3 years for arson and burglary. • Served full term, released in 1976
Appellate History	Based on fact that original attorney failed to use retardation as a

	mitigating factor for sentencing. Conviction overturned when U.S. Supreme Court found part of death penalty unconstitutional in AL. Retried in 1981, sentenced to death. All appeals failed
Ineffective Assistance?	Yes <ul style="list-style-type: none"> • No investigation • No challenge to all white jury • No challenge to coerced confession
Police Misconduct?	Yes Did not understand waiving of Miranda rights; Police Officer Bell told him where to walk and what to say at cemetery; failure to investigate other suspects
Prosecutorial Misconduct?	Yes Prosecutor Graddick dictated confession
Appellate Counsel	Al Pennington-Mobile; Blair Brown (Wash., DC) and M. McDonald (Mobile)

Freddie Lee Wright (AL)

Name/DOC #	Freddie Lee Wright
Address	Holman Prison/deceased
Date of Birth	April 29, 1951
Race	Black
Date of Crime	December 1, 1977
Age Time of Crime	26
Date Sentenced	July 1979
Victims	Warren and Lois Green
Race of Victims	White
Relationship to Defendant	None
Summary of Facts Alleged by State	Robbery of Western auto store; victims tied up and shot and killed
County of Trial	Mobile
Trial Judge	William Bolling
Trial Attorney	Al Pennington, Mobile Alabama
Prosecutors	Originally Charles Graddick (did investigation); Chris Galanos tried case with Neil Hanley.
Trial By	Jury
Race of Jurors	1 st trial: mixed (11 to 1 for acquittal); 2 nd trial: all White
Convicted of	Capital murder
Confession	Alleged partial confession to Detective Cookie Estes
Accomplice Testimony	Yes: Percy Craig, Roger McQueen, and Reginald Tinsley–co-defendants
Eyewitness Testimony	Yes: Mary Johnson, of Mt. Vernon, AL saw a man entering Western Auto as she left; She identified him and the car. The man was Theodore Otis Roberts.
Forensic Testimony	No fingerprints of Wright; found fingerprints of McQueen
Jailhouse Snitch	No
Defendant Testimony	No
Principal Exculpatory Evidence	Alibi
Sentencing Authority	Jury with possibility of override by judge
Statutory Aggravating Factor	Robbery
Non-Statutory Aggravating Factor	Previous record and incarceration
Mitigating Factors	No father; mother died when he was 13; he was a follower; not a violent person
Evidence of Mental Illness Retardation and or Neurological Damage	No
Criminal History	Yes: juvenile record, various convictions for robbery, served some time
Appellate History	All appeals denied. See dissent by Justice Johnstone from AL Supreme Ct. ruling, March 2000.
Ineffective Assistance?	Yes. <ul style="list-style-type: none"> • Original arrest of Theodore Otis Roberts allowed to be suppressed from use in Trial. • Failure to find alibi witnesses • Failure to object to all white jury • Failure to Question credibility of star witness in 2nd trial
Police Misconduct?	Yes.

	<ul style="list-style-type: none"> • Coerced confessions from McQueen, Tinsley, and Craig and deals made. • Officer Larry Tillman obtained statements from McQueen
Prosecutorial Misconduct?	See above. McQueen and Tinsley claim that DA Galanos and Detective Tillman told them what they had to say.
Appellate Counsel	Al Pennington: Direct Appeal; Arthur Madden: Rule 32 Brian McDonough (NY) handled all others

Thomas M. Thompson (CA)

Name/DOC #	Thomas Martin Thompson C-91600
Address	San Quentin, CA/deceased
Date of Birth	March 20, 1955
Race	White
Date of Crime	September 11, 1981
Age Time of Crime	26
Date Sentenced	August 17, 1984
Victims	Ginger Fleischli
Race of Victims	White
Relationship to Defendant	Acquaintance
Summary of Facts Alleged by State	Thompson raped victim and then killed her to cover up rape
County of Trial	Orange, CA
Trial Judge	Robert Fitzgerald
Trial Attorney	Ronald Brower
Prosecutors	Michael Jacobs
Trial By	Jury
Race of Jurors	Unknown/not applicable
Convicted of	First degree murder with rape special circumstance, rape
Confession	No—he always maintained innocence
Accomplice Testimony	None
Eyewitness Testimony	The only eyewitness testimony, that of David Leitch, co-defendant, stating that victim had consensual sex with Thompson, was withheld by the State and later barred from review by the Anti-terrorism and Effective Death Penalty Act
Forensic Testimony	Very questionable evidence of rape presented by coroner and later successfully rebutted at Federal habeas evidentiary hearing
Jailhouse Snitch	Yes: 4 used at preliminary hearing. These were later discarded and 2 new informants were used with new variation on the so-called confession
Defendant Testimony	Yes: he admitted having consensual sex with victim, denied rape, and denied killing her
Principal Exculpatory Evidence	Co-defendant's testimony that he saw victim and Thompson having consensual sex
Sentencing Authority	CA Death Penalty Statute
Statutory Aggravating Factor	No prior record
Non-Statutory Aggravating Factor	
Mitigating Factors	No prior record
Evidence of Mental Illness Retardation and or Neurological Damage	No
Criminal History	None
Appellate History	Conviction affirmed in State court; Reversed and vacated in US District Ct.; Reinstated by 9 th Circuit Ct. of Appeals-3 judge panel; Reinstated by USSC, not on merits but procedurally
Ineffective Assistance?	Yes: found by US District Ct. and 9 th Circuit En Banc
Police Misconduct?	No
Prosecutorial Misconduct?	Yes: found by 9 th Circuit En Banc
Appellate Counsel	Quin Denvir, Gregory Long, Andrew Love, William Arzbaeher

James Adams (FL)

Name/DOC #	James Adams
Address	Florida State Prison/deceased
Date of Birth	May 30, 1936
Race	Black
Date of Crime	November 12, 1973, Ft. Pierce, FL
Age Time of Crime	37
Date Sentenced	March 15, 1974
Victims	Edgar Brown
Race of Victims	White
Relationship to Defendant	Did some work for him
Summary of Facts Alleged by State	Adams entered victim's home to rob him and when Brown returned, he bludgeoned him to death with a fire poker
County of Trial	St. Lucie
Trial Judge	Wallace Sample
Trial Attorney	N. Richard Schopp, Port. St. Lucie, FL and Bruce Wilkinson, Stuart, FL
Prosecutors	R. N. Koblegard, Raymond E. Ford
Trial By	Jury voted 7-5 for death penalty
Race of Jurors	White-all male
Convicted of	Capital murder
Confession	No, always claimed innocence
Accomplice Testimony	No
Eyewitness Testimony	Yes: Foy Hortman spoke with person leaving house where murder committed; viewed lineup and stated "not Adams"
Forensic Testimony	Hairs found in victim's hand were not from Adams
Jailhouse Snitch	No
Defendant Testimony	Yes: maintained innocence
Principal Exculpatory Evidence	Alibi, playing cards at friend's house; hair in hand of victim not his
Sentencing Authority	Jury; judge had override
Statutory Aggravating Factor	Previous (unconstitutional) conviction for rape of a white woman in TN in 1962
Non-Statutory Aggravating Factor	Race
Mitigating Factors	12 th of 14 children in family of impoverished sharecroppers; no witnesses called by defense in penalty phase
Mental Retardation or Neurological Damage	No
Criminal History	Previous conviction for rape of white woman in TN; conviction for stealing a pig in 1976, had no counsel
Appellate History	<ul style="list-style-type: none"> • 1976 FL Supreme Court affirmed conviction and death sentence; USSC refused to intervene and to reconsider decision, 2977; 1978 FL Supreme Court denied relief on info not known to defense; 1978 U.S. supreme Court would not intervene; 1978 Petition for rehearing—U.S Supreme court invited State to respond but denied petition in 1979 • 1980 Gov. Graham signed death warrant; PCR denied • 1980 FL Supreme Court affirmed above; Fed. District Court granted stay; writ denied; 1983, 11th Circuit Ct. of Appeals affirmed; Jan. and Feb. • 1984 U.S. Supreme Court refused to review or reconsider; April 12, 1984

	<p>2nd death warrant</p> <ul style="list-style-type: none"> • Supreme Court, U.S. District Court. denied relief; May 8, 1984 11th Circuit granted stay on racial Disparities; vacated by U.S. Supreme Court-Blackmun, Brennan, Marshall, & Stevens dissented.
Ineffective Assistance?	Yes
Police Misconduct?	Unknown
Prosecutorial Misconduct?	Suppression of forensics on hair in hand of victim until 3 days after sentencing
Appellate Counsel	Richard Burr and Craig Barnard

Willie Jasper Darden, Jr. (FL)

Name/DOC #	Willie Jasper Darden
Address	Florida State Prison—executed March 15, 1988
Date of Birth	1933
Race	Black
Date of Crime	September 8, 1973
Age Time of Crime	40
Date Sentenced	January 23, 1974
Victims	James Carl Turman—killed; Phillip Arnold—wounded
Race of Victims	White
Relationship to Defendant	none
Summary of Facts Alleged by State	During a robbery at Carl’s Furniture store in Lakeland, FL, James Carl Turman shot and killed a neighbor; Phillip Arnold, 16, was wounded
County of Trial	Citrus Co., FL
Trial Judge	John H. Dewell
Trial Attorney	Asst. PD’s: Dennis Maloney and Tod Goodwill
Prosecutors	Ray McDaniel and J. Norman White
Trial By	jury
Race of Jurors	All white, 4 women, 8 men
Convicted of	Capital murder
Confession	No
Accomplice Testimony	No
Eyewitness Testimony	Yes: victim’s wife and Phillip Arnold, 16 year old who was wounded; identification under highly suggestive circumstances
Forensic Testimony	FBI agent testified gun found by police could have fired bullet that killed victim, however gun was not proven to be murder weapon or to belong to Darden
Jailhouse Snitch	No
Defendant Testimony	Yes—testified at guilt phase that he was innocent
Principal Exculpatory Evidence	Darden’s car had broken down on highway near someone’s house. He was standing there waiting for a tow truck at time of crime. She came to court every day to testify and was never called; victim’s minister could have corroborated Darden’s alibi but was not called to testify
Sentencing Authority	Jury recommended and judge imposed death
Statutory Aggravating Factor	Crime committed while under sentence of imprisonment; crime committed while in commission of a robbery; crime especially heinous, atrocious, and cruel
Non-Statutory Aggravating Factor	FL law does not require jurors to specify aggravating factors
Mitigating Factors	Mother died in childbirth when he was two; Darden considered non violent, very poor ex-slave, farming family; no mitigating evidence presented at trial (477 US 168). Judge considered Darden’s claims of innocence and fact that he had 7 children
Evidence of Mental Illness Retardation and or Neurological Damage	No
Criminal History	6 year sentence for forging check for \$48; on furlough from a FL prison; FSC said he was a career criminal with at least 5 convictions; furlough was from 1968 sentence for assault with intent to rape a 70 year old woman
Appellate History	<ul style="list-style-type: none"> • FSC affirmed on direct appeal (Darden v. State, 329 So. 2d 287) 1976;

	<ul style="list-style-type: none"> • USSC granted cert, heard argument, dismissed writ (430 US 704) 1977; • FDC denied habeas (Darden v. Wainwright, 513 F. Supp 947)1981; • US Ct. of Appeals panel affirmed, 2 to 1 (699 F 2d 1031)1983; • US Ct. of Appeals rehearing en banc, affirmed (court equally divided) (708 F 2d 646)1983; • US Ct. of Appeals heard case again en banc and reversed (725F.2d 1526); • USSC granted state’s cert petition, vacated 11th Circuit opinion and remanded for reconsideration (469 U.S. 1201) 1985; • On remand, 11th Circuit denied relief (767 F. 2d 752) 1985; • USSC granted cert on petition for stay of execution (473 U.S. 928) 1985; • USSC affirmed case, 1986; • US Ct. of Appeals rejected appeal from failure of 3rd habeas writ (825 F.2d 287) 1987; • USSC granted cert (484 US 943) 1988; USSC denies cert & stay (485 US 949) 1988.
Ineffective Assistance?	Alleged but rejected by courts
Police Misconduct?	None shown
Prosecutorial Misconduct?	Prosecutor used inflammatory and racist language in trial; Justice Blackmun, in US Supreme Ct. Dissent, stated he did not get a fair trial; identified by victim’s wife in a courtroom where he was the only Black man, not in a lineup
Appellate Counsel	Robert Augustus Harper, CCR office

Jesse J. Tafero (FL)

Name/DOC #	020285
Address	Florida State Prison
Date of birth	October 12, 1945
Race	White
Date of crime	February 20, 1976
Age at time of crime	29
Date sentenced	May 20, 1976
Victims	Highway Patrolman Phillip Black & Canadian Constable Donald Irwin
Race of victims	White
Relationship to defendant	No relationship
Summary of facts as alleged by state	See attached summary
County where tried	Broward County Florida
Trial judge	Judge Daniel Futch Futch's nickname was "Maximum Dan" – he displayed a miniature electric chair on his desk Futch was a former highway patrolman.
Trial attorney	Robert McCain After Tafero's trial, McCain was disbarred. He was convicted of obstruction of justice for bribing a witness in another case and for narcotics conspiracy.
Prosecutors	Michael Satz <ul style="list-style-type: none"> • Satz was an assistant DA at the time of the trial • A day after securing death penalty convictions against Tafero and his co-defendant Sonia Jacobs, Satz announced he was running for DA. Elected largely on this high profile case. • Satz easily won the election and has been State's Attorney in Broward County since 1976. • In November 2000, for the first time in Satz's career, someone is running against him.
Trial by	Jury
Race of jurors	White
Convicted of	First Degree Murder/Felony Murder <ul style="list-style-type: none"> • Theory was that they killed the police so they could steal the trooper's gun and trooper's car for getaway. • It is unclear whether Tafero was convicted on felony murder theory or because jury believed he was the triggerman.
Confession	No
Accomplice testimony	Yes. The co-defendant, Walter Norman Rhodes, took a plea bargain for 2 nd Degree Murder in exchange for his testimony against Jesse Tafero and Sonia Jacobs.
Eyewitness testimony	Two truck drivers watched the drama unfold from a distance of 150 to 200 feet away. (Pierce Hyman and Robert McKenzie.) Neither truck driver could say who the shooter was, but both said in their first statements to the police that Tafero was pinned over the hood of the car during all the shots. Hyman's story changed slightly only after several discussions with the police. He then said Tafero might have gotten up off the hood of the car before the shooting stopped, but almost when it was over. Both truck drivers saw slightly different things, the most significant

	<p>being where co-defendant Walter Rhodes was standing. Hyman said Rhodes was always standing in front of the car. McKenzie said Rhodes moved to the rear of the car as the shots were fired. McKenzie’s statement was very significant because the shooter, according to ballistics evidence, had to have shot from the rear of the car. The reason Hyman thought Rhodes never moved from the front of the car is because McKenzie moved his truck toward the exit blocking Hyman’s view of the scene at the exact time Rhodes moved to the back of the car. In Rhodes’ 1982 recantation, he swore under oath he moved from the front to the back of the car and fired at the two cops.</p>
Forensic testimony	<ul style="list-style-type: none"> • When Tafero was apprehended, he had the murder weapon in his possession. • Ballistics proved this gun killed both police officers. • Rhodes had a matching 9mm gun. A bullet hole in the windshield post of the trooper’s car determined that the shooter was at the rear of the Camaro when firing. • Gun powder tests done on Walter Rhodes, Jesse Tafero and Sonia Jacobs resulted in the following findings: <ul style="list-style-type: none"> ○ Walter Rhodes – gunpowder residue found consistent with “having discharged a weapon.” ○ Jesse Tafero – gunpowder residue found consistent with “handling an unclean or recently discharged weapon, or possibly discharging a weapon.” ○ Sonia Jacobs – residue found consistent with “having handled an unclean or recently discharged weapon.” Jacobs’s 9 year old son had the same result as she.
Jailhouse snitch	<ul style="list-style-type: none"> • Ellis Marlowe Haskew testified at trial that he heard Tafero say at a New Year’s Eve party 5 weeks before the murders that he would never go back to prison, and that he owned a lot of guns. • The fact that Haskew was at that time testifying in many federal drug cases was not disclosed; the fact that Haskew’s lawyer’s fees were paid by the Florida Department of Criminal Law Enforcement was not disclosed. • When this snitch was named only on the first day of trial, Defense counsel asked for a continuance to investigate Haskew’s background and claims but Judge Futch denied request. • Defense counsel only had 30 minutes to interview snitch before his testimony. • In Sonia Jacobs’ trial the DA also used a jailhouse snitch who testified that Jacobs confessed to her that she killed the police and would do it again. • The snitch was released from jail in exchange for her testimony. • Years later, the snitch recanted her testimony and went on national television to apologize to Jacobs • She also said the DA knew she was lying.
Co-Defendant testimony	<ul style="list-style-type: none"> • Star witness Walter Rhodes testified at both Tafero’s and Jacobs’s trials in exchange for a plea to second-degree murder, escaping the capital charge. • He said Jacobs fired first from the back seat of the car • He then said Tafero got away from the officer holding him, grabbed the gun from Jacobs and shot the two police officers.
Principal exculpatory evidence	<p>Tafero always maintained his innocence.</p> <ul style="list-style-type: none"> • Both eyewitnesses said in their first statement to the police that Tafero was held over the hood of the police car while all the shots were fired. • Jesse did not have enough gunpowder on his hands to prove conclusively he fired a gun.

	<ul style="list-style-type: none"> • Hyman saw Rhodes move from the front to the back of the car to put him into position for shooting the police officers, directly contradicting his trial testimony. • Rhodes confessed to the murders at three different times: in 1977, in 1979 and in 1982. • All three recantations became public. • In 1977, Rhodes bragged to two inmates that he alone committed the double murder. • A prison guard named Jowers overheard the confession. • Jowers gave a formal statement to the prosecutor’s investigator, but that statement was never turned over to Tafero’s lawyers. • The prosecutor said he relied on a polygraph in giving Rhodes a plea bargain to second-degree murder. • Later, three polygraph experts confirmed that Rhodes did not pass the polygraph and one said it was the most botched test he had ever seen. • A Brady violation in Jacobs’s case reversed her conviction because the prosecutor failed to turn over the polygraph summary report. • Star witness Rhodes said to the polygraph examiner that he did not think Sonia fired at all, directly contradicting his trial testimony where he said she fired first and handed the gun to Tafero
Sentencing authority	Judge – according to Florida Statutes.
Statutory aggravating factor	<p>Double murder and Felony murder.</p> <ul style="list-style-type: none"> • Found crime to be especially heinous, atrocious or cruel. • Used the statutory factor that defendant knowingly created a great risk of death to many persons (based on the kidnapping and running of a roadblock after the murders.) • Judge used Tafero’s prior conviction for violent crimes. • Judge found the killings were done to avoid arrest (and be returned to prison as both Tafero and Rhodes were on parole) and to hinder the enforcement of laws. • Judge found murders were committed by a person under sentence of imprisonment (judge used the fact Tafero was on parole).
Non-statutory factors in aggravation	
Mitigating factors	<p>None.</p> <ul style="list-style-type: none"> • The penalty phase consisted of a 30-second closing statement by Attorney McCain insulting the jury. See below in “Ineffective Assistance of counsel” section. • Judge failed to consider that Jesse may have been convicted only on a felony murder theory and may not have been the actual cause of death on the facts proven.
Evidence of mental illness, retardation, and/or neurological damage	None.
Criminal history	When Tafero was 20-years-old, he went to prison for attempted robbery and crimes against nature.
Appellate history	<p>Tafero exhausted all his state and federal appeals.</p> <ul style="list-style-type: none"> • Conviction and death sentence affirmed on direct appeal to Florida Supreme Court. <i>Tafero v. Wainwright</i>. • Certiorari was denied.

	<ul style="list-style-type: none"> • State and federal habeas unsuccessful. • In Tafero’s state habeas evidentiary hearing the co-defendant initially agreed to tell the truth about what he did, but copped out at the last minute.
Was ineffective assistance of counsel an issue?	<p>Yes.</p> <ul style="list-style-type: none"> • Tafero’s trial lawyer had a drug problem during the time of the trial. • After Tafero’s trial, the lawyer was disbarred. • He was convicted of obstruction of justice for bribing a witness in an unrelated case and for narcotics conspiracy. • The penalty phase consisted of a 30-second argument by defense counsel who said the defendant feels he did not receive a fair trial, the verdict is not fair, and he will not beg for his life or ask for mercy. • Later, at the state evidentiary hearing on habeas, McCain testified Tafero forced him to make this argument.
Was police misconduct an issue?	<ul style="list-style-type: none"> • In Jacobs’s trial, two police officers testified that Jacobs had confessed to them, implicating Tafero in the murders. • In the 11th Circuit opinion overturning her conviction, the court found both alleged confessions ludicrous based on the circumstances, but threw only one out on Miranda grounds. • In Tafero’s case a police officer claimed Tafero bragged about killing the police, but other officers present at the time of the alleged confession did not overhear Tafero’s statement.
Prosecutorial Misconduct	<ul style="list-style-type: none"> • The prosecutor suppressed the statement by a guard who overheard Rhodes confess to two inmates. • Prosecutor lied saying he gave Rhodes the deal only because he passed a polygraph exam: the polygraph was a sham. • In Sonia’s case, the jailhouse informant who later recanted said the prosecutor knew she, the snitch, was making it up. • In Jesse’s case, the prosecutor came up with a bogus jailhouse snitch named as a witness on the first day of trial and failed to divulge facts about that witness’ career as a snitch. • (State’s Attorney Satz apparently has a habit of using jailhouse snitches in a large percentage of his cases.) In Sonia’s case, the prosecutor failed to turn over the exculpatory polygraph summary. • Although the statement only directly exculpated Sonia, because Jesse and Sonia were linked by Rhodes’ testimony, any evidence contradicting his trial testimony and showing him to be a liar would also have helped Jesse.
Appellate counsel	<p>Craig Barnard and Richard Jorand by of W. Palm Beach Public Defender’s Office; Mark Olive and Jenny Greenberg of Tallahassee, Capital Collateral Counsel; Michael Tarre, Coral Gables, Fl, and Bruce Rogow, Nova University, Ft. Lauderdale.</p>

Girvies Davis (IL)

Date of birth	January 20, 1958
Race	Black
Date of crime	December 22, 1978
Age at time of crime	20
Victim:	Charles Biebel
Race of victim	White
Age of victim	89
Relationship to defendant	None
Summary of crime	Wheelchair-bound victim shot during the burglary of his home in St. Clair Co.
County where tried	St. Clair
Trial judge	Stephen M. Kernan
Trial attorney	Patrick M. Young
Prosecutor	Clyde L. Kuehn, St. Clair County State's Attorney
Trial by	Jury
Race of jurors	White; 3 Blacks excused by prosecutorial peremptory challenge
Convicted of	Murder
Principal inculpatory evidence	Confession, recanted before trial, acknowledging participation in home invasion during which crime was committed but attributing actual murder to co-defendant, Richard Holman; testimony of Gregory Mitchell, a self-described "fence" that Davis told him, "We might have something for you later on," and that Holman later the same day sold him the gun stolen from the victim and used to kill the him; evidence of two prior murders of elderly women, Frieda Mueller and Esther Sepmeyer, introduced for purpose of establishing modus operandi; items taken from Sepmeyer home found in Davis's possession.
Principal exculpatory evidence	Testimony of two special agents of the Illinois Division of Criminal Investigation establishing that other persons had been convicted of two murders to which Davis had confessed at the same time he confessed to the Biebel, Mueller, and Sepmeyer murders.
Defendant testimony	None
Jailhouse snitch	None
Accomplice testimony	None (Although during the sentencing phase the jury was shown a video-taped interrogation of Davis during which State's Attorney Clyde L. Kuehn stated that Davis's alleged accomplice, Richard Holman, had implicated Davis in several murders in which Davis allegedly was the trigger man.)
Confession	Yes (recanted before trial)
Eyewitness testimony	None
Forensic testimony	None
Non-forensic expert testimony	None
Evidence of mental illness, retardation, and/or neurological damage	No evidence presented to jury (Out of the jury's presence, defense attorney Young informed Judge Kernan that there was evidence Davis suffered from mental illness, retardation, and brain damage. Young described the evidence as sufficient to show that "the murder was committed while the defendant was under the influence of extreme mental or emotional disturbance, although not such as to constitute a defense to the prosecution." Young said Davis did not want such evidence presented to the jury. Kernan then asked Davis if Young had correctly stated his position, and Davis replied, "That's correct.")
Statutory aggravating	Prior murder convictions (murders of John Oertel and Frank Cash)

factor	
Sentencing authority	Jury
Mitigating factors	The only evidence in mitigation was the testimony of Davis's wife, Cindy Davis, who testified that her husband never had been violent toward her and that, if he were allowed to live, she would visit him in prison.
Criminal history	Convictions for the murders of John Oertel and Frank Cash in St. Clair County, conviction for attempted murder in St. Clair County, conviction of the murder of Esther Sepmeyer in Madison County.
Date sentenced	December 1980
Age when sentenced	22
Co-defendant	Richard Holman
Disposition of co-defendant's case	Case severed, charges dismissed on state's motion; Holman had been convicted and sentenced to natural life for the Sepmeyer crime.
Appellate history	<ul style="list-style-type: none"> • Conviction and sentence affirmed by Illinois Supreme Court on February 18, 1983, <i>People v. Davis</i>, 95 Ill.2d 1. (Justice Joseph Goldenhersh voted to affirm the conviction but dissented on the sentence on the ground that there was no evidence that Davis, as opposed to Holman, had been the triggerman. Justice Seymour Simon dissented on both the conviction and the sentence.) • Petition for post-conviction relief dismissed by St. Clair County Circuit Court Judge Patrick J. Fleming without a hearing, appeal unanimously denied by Illinois Supreme Court on December 21, 1987, <i>People v. Davis</i>, 119 Ill.2d 61. (Justices Simon and Cunningham took no part in decision.) • Petition for federal writ of habeas corpus denied by U.S. District Court Judge William D. Stiehl, of the Southern District of Illinois, appeal denied by U.S. Court of Appeals for the Seventh Circuit on January 13, 1994, <i>Davis v. Greer</i>, 13 F.3d 1134. • Petition for rehearing en banc denied by Seventh Circuit on April 13, 1994, <i>Davis v. Greer</i>, 21 F.3d 788. (Judges Kenneth F. Ripple, Richard D. Cudahy, and Ilana Diamond Rovner dissented.)
Appellate counsel	Daniel D. Yuhas, Charles M. Schiedel, Lawrence Bapst, and David Bergschneider, of the Illinois Appellate Defender's Office, on direct appeal; Russell J. Hoover and Julia A. Martin, of Jenner & Block, in petition for post-conviction relief; John D. Shugrue, Russell J. Hoover, Barry Levenstam (argued), and Jannice A. Hornaday, of Jenner & Block, on petition for federal writ of habeas corpus.
Date of execution	May 17, 1995
Age when executed	37
Time lapse (conviction to execution)	14 years, 5 months

Larry Griffin (MO)

Name/DOC #	Larry Griffin
Address	Potosi Correctional Center/deceased
Date of Birth	September 23, 1954
Race	Black
Date of Crime	June 26, 1980
Age Time of Crime	25
Date Sentenced	August 7, 1981
Victim(s)	Quintin Moss
Race of Victim(s)	Black
Relationship to Defendant	Suspected murderer of Griffin's brother, Dennis.
Facts Alleged by State	Griffin shot Moss from a moving car at the intersection of Sarah and Olive in St. Louis, Missouri.
County of Trial	City of St. Louis
Trial Judge	Gallagher
Trial Attorney	Frederick Steiger
Prosecutors	Gordon Ankney
Trial By	Judge and Jury
Race of Jurors	
Convicted of	Capital murder
Confession	None
Accomplice Testimony	None
Eyewitness Testimony	Unreliable photo identification by sole eyewitness Robert Fitzgerald, who later recanted his in-court identification of Griffin.
Forensic Testimony	None of Griffin's fingerprints found on car None of Griffin's fingerprints found on murder weapons.
Jailhouse Snitch	N/A (Prosecution denied there was a plea bargain in exchange for Fitzgerald's testimony but he was released from custody having had his sentence reduced to time served for credit card fraud charges on the day Griffin was convicted.)
Defendant Testimony	Did not testify
Principal Exculpatory Evidence	Testimony of Kerry Caldwell, an actual participant in the killing, that Griffin was not involved. New eyewitness (Jimmy Massey) stated Griffin not involved.
Sentencing Authority	
Statutory Aggravating Factor	The circumstances of the shooting created a risk of danger to other persons.
Non-Statutory Aggravating Factor	N/A
Mitigating Factors	Actual Innocence Death penalty disproportionate sentence for drive-by shooting Defendant did not receive a fair trial.
Evidence of Mental Illness Retardation and or Neurological Damage	N/A
Criminal History	Shoplifting and burglary - details not known
Appellate History	See page 9 clemency petition
Ineffective Assistance?	At trial: <ul style="list-style-type: none"> • Failure to present relevant evidence that Griffin was left-handed • Inadequately investigated alibi defense collapsed in court • Failure to discover and utilize information undermining Fitzgerald's credibility.

	<ul style="list-style-type: none"> • No preparation for penalty phase.
Police Misconduct?	Police presented photo of Griffin to Fitzgerald and suggested he was involved before actual photo identification.
Prosecutorial Misconduct?	<ul style="list-style-type: none"> • Prosecutor referred to Griffin's failure to testify • Failed to reveal Fitzgerald's conviction • Failed to disclose that Robert Campbell was an available witness. • Fitzgerald plea bargain not disclosed
Appellate Counsel	Frederick Steiger (Direct Appeal to Missouri Supreme Court) Kent E. Gipson (Federal Habeas)

Roy Michael Roberts (MO)

Name/DOC #	Roy Roberts
Address	Moberly Training Center for Men
Date of Birth	
Race	White
Date of Crime	July 3, 1983
Age Time of Crime	
Date Sentenced	
Victims	Thomas Glen Jackson
Race of Victims	White
Relationship to Defendant	Prisoner/guard
Facts Alleged by State	Holding prison guard while he was stabbed to death
County of Trial	
Trial Judge	
Trial Attorney	Tom Marshall
Prosecutors	Tim Finnical
Trial By	Jury
Race of Jurors	
Convicted of	Capital murder
Confession	No
Accomplice Testimony	No: <ul style="list-style-type: none"> • Rodney Carr, stabber, got life • Robert Driscoll-recently retried and got death penalty
Eyewitness Testimony	Yes: <ul style="list-style-type: none"> • 3 guards and 1 prisoner: all failed initially to identify Roberts, a 300+ pound man • Guard Halley claimed in trial testimony that he just forgot to mention him
Forensic Testimony	<ul style="list-style-type: none"> • Blood on other inmates' clothes, not known if tested; • Nothing on Roberts's clothes (they were not saved, tested, or offered as evidence)
Jailhouse Snitch	No
Defendant Testimony	
Principal Exculpatory Evidence	<ul style="list-style-type: none"> • No bloody clothes. • No physical evidence tying him to crime. • One guard testified that he fought with Roberts elsewhere during riot. • Roberts took polygraph test Feb. 19, 1999 - results showed "no deception" on direct questions about murder
Sentencing Authority	Jury
Statutory Aggravating Factor	Previous arrest for robbery of restaurant; did 2 years before that
Non-Statutory Aggravating Factor	
Mitigating Factors	
Evidence of Mental Illness Retardation and or Neurological Damage	No
Criminal History	<ul style="list-style-type: none"> • Crime for which he was in prison: robbing a restaurant • Carl Harris confessed to that crime in February, 1999 (St. Louis Post-Dispatch-February 21, 1999, Bill McClellan,

	reporter)
Appellate History	<ul style="list-style-type: none"> • Direct appeal denied State v. Roberts, 709 S.W. 2d 857 (Mo.1986). • His writ of certiorari was denied in Roberts v. Missouri, 479 U.S. 946 (1986). • Again in 1989 his writ of certiorari was denied by the court en banc, 494 U.S. 1039 (1990). • The U.S. Supreme Ct. denied his final petition for certiorari on Jan. 11, 1999. Roberts v. Bowersox, 119 S. Ct. 808 (1999). • The U.S. Supreme Ct. denied his final petition and appeal March 9, 1999, hours before the execution. • Roberts v. Bowersox, 119 S. Ct. 1160 (1999)
Ineffective Assistance?	Yes: Lawyer failed to cross examine 3 of the 4 eyewitnesses about discrepancies in testimony
Police Misconduct?	
Prosecutorial Misconduct?	
Appellate Counsel	Bruce Livingston

Odell Barnes, Jr. (TX)

DEFENDANT' S INFORMATION	
Defendant' s Name	Odell Barnes
Date of Birth	1971
Defendant' s Race	Black
Criminal History	Aggravated robbery; rape, after the Bass crime
Execution Date	March 1, 2000
TDC Number	
Age at time of crime	18
Age at execution	29
THE CRIME	
Date of Crime	November 29 or 30, 1989
County	Wichita
Victim(s)	Helen Bass
Race of Victim(s)	Black
Relationship to Defendant (if any)	<ul style="list-style-type: none"> • Barnes' mother was friends with her • Barnes had worked on her house previously • Barnes had a consensual sexual relationship with her
Offense Alleged	Capital murder
Allegations	Raped, shot, stabbed, beat, robbed victim
THE TRIAL	
County where tried	Lubbock
Trial Judge	Temple Driver–Wichita Falls
Prosecutor(s)	Barry Macha and John Brasher—trial and post conviction
Defense Attorney(s)	Reginald Wilson and Marty Canedy–Wichita Falls
Plea	Not guilty
Racial Makeup of Jury	
Convicted of (statute)	Capital murder (Rape, robbery and murder)
Confession?	No
Accomplice(s)	No
Eyewitness(es)	Robert Brooks–testified to seeing Barnes jump victim's fence one and one half hours before victim's return home from work Mary Barnes (Odell's mother) brought victim home from work
Scientific Evidence	Identification by prosecution of blood and semen–50% probability, 2 spots blood on coveralls Fingerprint on lamp
Jail House Snitch?	No
Defendant testimony	No
Exculpatory Evidence Offered?	Not at trial
Additional Punishment evidence by State	One of his unadjudicated rapes; prior criminal history

Mitigating Evidence by Defense	None presented at punishment phase: <ul style="list-style-type: none"> • A few family members spoke for him. • Psychological test done right before trial • Psychologist never testified • No mitigation with regard to family life • Fights in family • Heavy use of alcohol and fighting (Barnes had shot father while trying to protect mother)
Mental Retardation, Mental Illness, neurological damage?	No
Sentencing Date:	May 14, 1991
	DIRECT APPEAL COURT OF CRIMINAL APPEALS
State' s appellate attorney	Macha and Brasher
Defendant' s appellate attorney	Wilson and Canedy
Appellate brief filed	Date
Grounds Raised	Challenged: <ul style="list-style-type: none"> • Search warrants • Admission of photos of victim • Sufficiency of evidence to sustain conviction • Failure of trial court to define reasonable doubt • Evidence to suggest Barnes as future threat • Jury selection • Error in punishment charge • Witness not on State' s list allowed to testify
Date of opinion	1994/affirmed conviction (Barnes v. State 876 s.w. 3d316)
Opinion citation	Affirmed conviction
Cert to S. Ct?	October 1999
	STATE WRIT OF HABEAS CORPUS
Writ Attorney	John Curry–Wichita Co. Public Defender
Appointed, retained or volunteer?	Appointed/filed Writ April 1997
Grounds Alleged	<ul style="list-style-type: none"> • Denial of instruction on reasonable doubt • Denial of reasonable appellate review by CCA • Failure to inform jury that a single “no” vote on special issue would force court to give Barnes a Life sentence. • Disproportionality on sentence • Sentence-arbitrary and capricious • Mitigation instruction inadequate • Invalidity of search warrant • Ineffective assistance of counsel
Writ Judge	Temple Driver
Date of Decision	December 1997
Decision	Denied

Cert to S. Ct.?	No
	NEW EVIDENCE OF INNOCENCE
Developed by:	Gary Taylor, Phil Wischkaemper, Mike Charlton, attorneys; and Lisa Milstein and Mike Ward, investigators
Presented to:	
Summary:	<ul style="list-style-type: none"> • Eyewitness to Barnes jumping fence one and one half hours before Ms. Bass returned home from work—sister was in car and he originally did not identify Barnes with certainty • 1 of 2 spots of blood on coveralls had citric acid on them, probably planted (prosecutors went back and did DNA testing in 1997 and found the semen was Barnes’ and the one blood spot belonged to the victim.) • Attorneys for Barnes did a test and were able to date the semen as much earlier than day of murder and in doing the blood testing, they discovered citric acid in the spot that the State said was victim’s blood • Humphries sold a gun wrapped in a purple bandana to Harvey Neil • Humphries was wearing coveralls with blood on them • Williams, drug dealer and state’s witness, made a deal for lesser charges on pending cases • Humphries seen leaving victim’s home night of murder by Homer Kines; lamp with Barnes’ fingerprint had been in victim’s home for some time • Marquita Mackey, Williams’ girlfriend, was overheard by Sandy Durant, a white woman in her cell, saying that Humphries, Williams, and a 3rd person had come to her home the night of the murder covered in blood and demanding clean clothes. • Humphries put a gun to her head and said he would kill her like he did Ms. Bass if she didn’t get him the clothes • Tammy Lewis gave sworn statement about deal Williams made with DA • Rodney Brown saw Patrick Williams with bloody gun • Bloody bandana was in Humphries’ possession • Humphries told Brown “I did something.”

Robert Nelson Drew (TX)

DEFENDANT'S INFORMATION	
Defendant's Name	ROBERT NELSON DREW
Date of Birth	April 8, 1959
Defendant's Race	White
Criminal History	None
Execution Date	August 22, 1994
TDC Number	755
Age at the time of crime	24
Age at the time of execution	35
THE CRIME	
Date of Crime	February 21, 1983
County	Harris County
Victim(s)	Jeffrey Leon Mays
Race of Victim(s)	White male
Relationship to Defendant (if any)	Traveling acquaintance
Offense Alleged	Capital murder
Factual summary of allegations	<ul style="list-style-type: none"> • In the course of committing robbery against Mays, Drew intentionally caused the death of Mays by stabbing him. • In the course of the kidnap of Landrum – stabbing Mays intentionally and knowingly caused death of Mays by stabbing him with a knife. • Intention to cause severe bodily injury to Mays, and caused death of Mays by intentionally and knowingly committing an act clearly dangerous to human life. • While traveling in a car Mays and Drew got into an argument. After beating Mays in the car, Drew and Puralewski (accomplice) ordered Mays out of the car and stabbed him to death.
THE TRIAL	
County where tried	Harris County
Trial Judge (name, address and telephone)	Hon. Charles Hearn, 263 District Court, Harris County, TX
Prosecutor(s) (name, address and telephone)	Eric Hagstette, Assistant DA with DA office of Harris County, TX
Defense Attorney(s) (name, address, and telephone)	Don Rogers and Richard Stephanow.
Plea	Not Guilty
Racial Makeup of Jury	
Convicted of (statute)	Capital Murder – TX PC s.19.03 (a)(2)
Confession?	No
Accomplice(s)	Ernest Puralewski, who later admitted that he committed the murder alone
Eyewitness(es)	One (as well as Puralewski) – Bee Landrum, who later recanted his testimony and admitted that he did not, in fact, see what happened.
Scientific Evidence	No psychiatric testimony presented.
Jail House Snitch?	
Defendant Testimony?	
Exculpatory Evidence Offered?	
Additional Punishment evidence by State	

Mitigating Evidence by Defense	<ul style="list-style-type: none"> • Drew’s Uncle – Donald Martelle – testified as to Drew’s broken and poverty stricken home background with a history of domestic problems and drinking problem. • Drew was average in school, had been married and divorced, had one child and was a drifter at the time of the murder.
Evidence of Mental Retardation, Mental Illness, and/or neurological damage?	“Applicant’s responses were consistent with counsel’s personal observation of applicant and corroborated counsel’s conclusions that neither insanity nor competency to stand trial were issues in applicant’s case.”
Sentencing Date:	December 9, 1983
	DIRECT APPEAL TO COURT OF CRIMINAL APPEALS
State’s appellate attorney	
Defendant’s appellate attorney	William Kunstler, Bradford E. Yock
Date appellate brief filed	March 30, 1984
Grounds Raised	Appellant raised 12 grounds of error, encompassing: <ul style="list-style-type: none"> • Trial court erred in denying appellants out-of-time motion for new trial on basis of a lack of jurisdiction because the “new available” evidence warranted a new trial and because the jury misconduct occurred when parole was discussed. • Challenges to the sufficiency of the evidence to prove that the murder was committed in the course of committing robbery of the deceased and the sufficiency of the evidence to support an affirmative finding of the 2nd special issue submitted – that appellant was a continuing threat to society. • Four points of error re: improper jury argument of prosecutor. • Two points of error re: trial court error in sustaining challenges for cause to venire men Grover Smith and Archie Cotton.
Date of opinion	September 30, 1987, conviction affirmed
Opinion citation (or attached)	Drew v. State, 743 S.W. 2d 207 (Tex. Crim. App. 1987)
Cert to S. Ct?	Denied June 28, 1993.
	STATE WRIT OF HABEAS CORPUS
Writ Attorney	<ul style="list-style-type: none"> • Ronald Kuby and William Kunstler • Rob Owen • Michael Jackson
Appointed, retained or volunteer?	Indigent, so either appointed or volunteer
Grounds Alleged	<p>INNOCENCE:</p> <ul style="list-style-type: none"> • Alternative murderer – Ernest Puralewski confessed in sworn affidavit fully exculpating Drew • Bee Landrum, only eyewitness, recanted • Tape with Landrum hours after killing in which he admitted he didn’t see murder was suppressed until 5 years after Drew’s trial • Execution of an innocent person violates 8th and 14th Amendment of US Constitution and Art 1 s. 13 of TX Constitution <p>AMMENDED APPL FOR POST-CON WRIT OF Habeas Corpus Prosecutor repeatedly used a hypothesis at voir dire that fundamentally misstated TX Law, in violation of TX and federal constitutional guarantees and resulted in inability of jurors to determine guilt reliably and to consider and give effect to mitigating evidence.</p>
Writ Judge	Ruben Guerrero

Date of Decision	July 28, 1994
Decision	Denied
Cert to Supreme Ct.?	Denied Feb. 28, 1994
	NEW EVIDENCE OF INNOCENCE
Developed by:	writ attorneys
Presented to:	TX Court of Criminal Appeals
Summary:	Additional evidence that Puralewski had been claiming sole responsibility for the murder since his incarceration in Harris County Jail. Alan Burns – inmate incarcerated with Puralewski sworn affidavit to above effect.

Gary Graham (aka Shaka Sankofa) (TX)

TDCJ Number	696
Address	Death Row – Huntsville & Livingston, Texas/deceased
Date of birth	September 5, 1963
Race	Black
Date of crime	May 13, 1981
Age at time of crime	17
Date sentenced	1981
Victims	Bobby Lambert
Race of victims	White male
Victim Relationship to defendant	No relationship
Facts alleged by state	<ul style="list-style-type: none"> • Gary Graham was arrested in May 1981, after a weeklong crime spree. • A 57-year-old white woman who told police that Gary had raped her at gunpoint turned him in • Charged with aggravated robbery and capital murder of a white man who had been robbed and murdered in a dimly lit grocery store parking lot in Houston • Not charged with rape • He pleaded guilty to 10 counts of aggravated robbery, but always maintained his innocence of the murder • The only evidence used to convict Gary was the testimony of a single eyewitness who saw the perpetrator for 2 to 3 seconds in the dark. This eyewitness, Bernadine Skillern, helped police make a sketch of the shooter. She picked Gary out of a live line-up having seen his picture in a photo spread the day before. Gary was the only person in the photo spread and live line-up to match the general characteristics of the shooter. • All the eyewitnesses agreed the shooter was a clean-shaven black male with a short, compact afro wearing a white jacket and dark slacks. They all agreed the shooter resembled the police sketch, which bore little resemblance to Gary Graham. • Graham was arrested with a .22 caliber handgun. • The victim was killed with a .22 caliber handgun, but Houston police stated unequivocally that Graham’s gun was NOT the murder weapon. The jury never heard this ballistics evidence or the other eyewitnesses. • In the penalty phase of the trial, Graham’s other crime victims testified against him.
County where tried	Harris County
Trial judge	Judge Travathian
Trial attorney	Ron Mock
Prosecutors	Johnny Holmes Office
Trial by	Jury
Race of jurors	11 white, one Black
Convicted of	Capital murder
Confession	No confession. Gary always maintained his innocence.
Accomplice testimony	No accomplice.
Eyewitness testimony	One eyewitness identifies Gary. Her identification process was tainted. Six other eyewitnesses fail to identify him.
Forensic testimony	The victim was killed with a .22 caliber handgun. Ballistics proved Gary’s gun was NOT the murder weapon. No other physical evidence linked Gary to the crime.
Jailhouse snitch	No jailhouse snitch.

Defendant testimony	Gary did not testify, although he always said he wanted to testify.
Principal exculpatory evidence	<ul style="list-style-type: none"> • No physical evidence linked Graham to the crime. • Six eyewitnesses swear Graham was not the killer. • The police did not follow up three very promising leads after Graham was arrested. • The eyewitness identification process used with Bernadine Skillern was tainted. • The guilt phase of the trial lasted less than two days. Graham's attorney put on no defense and did no investigation. He virtually did no cross-examination of Bernadine Skillern and even suggested to the jury that his client was the murderer. • The murder weapon did not match Graham's gun; the jury never heard this information. • The jury never heard from eyewitnesses Ron Hubbard and Sherian Etuk who said Graham was not the shooter. Eyewitnesses Ron Hubbard, Sherian Etuk and Wilma Amos told police the shooter was 5' 3" to 5' 5". • Mock failed to ask eyewitnesses Daniel Grady or Wilma Amos, who did testify at trial, if Graham was the shooter. • Four alibi witnesses never testified nor were even interviewed by defense counsel.
Sentencing authority	Jury
Statutory aggravating factor	10 aggravated robberies; two victims were shot and wounded during the robbery.
Non-statutory factors in aggravation	Although never charged with rape, the judge allowed the jury to hear the testimony of the woman who said Gary raped her.
Mitigating factors	Gary was 17 when he was arrested. He grew up in poverty with a mentally ill mother and a father with a drinking problem.
Mental illness, retardation or neurological damage	None.
Criminal history	Armed robbery when he was a juvenile.
Appellate history	<ul style="list-style-type: none"> • case was presented to all the appropriate state and federal courts, including the U.S. Supreme Court. • Case was summarily denied on procedural technicalities and time bar rules in every court. • Graham had one evidentiary hearing in 1988 where two alibi witnesses were heard. These witnesses were deemed non-credible by the judge. • The compelling evidence of other eyewitnesses who said Graham was not the killer was discovered in 1993. The 1988 hearing was the only evidentiary hearing Graham ever had. • In 1995, the 5th Circuit Court of Appeals said there was merit to Graham's case, but would not rule because Graham had not exhausted his state appeals. • In 1996, the Texas Court of Criminal Appeals rejected the case on technical grounds without addressing the merits. • When the case was sent back to the 5th Circuit, the court now refused to review it because of the 1996 Anti-terrorism and Death Penalty Act that stated that new evidence would not be considered if it could have been discovered at the time of trial. • Graham's case was NEVER reviewed on the merits by any court or judge.
Ineffective Assistance of Counsel	Yes-failure to call other eyewitnesses or alibi witnesses to testify, no investigation, failure to cross examine one eyewitness adequately

Police Misconduct	<p>The identification process used by police was tainted.</p> <ul style="list-style-type: none"> • They showed Bernadine Skillern a photo array 13 days after the murder. • The only suspect in the photo spread to resemble the general characteristics of the murderer – a clean, black male with a compact afro – was Gary Graham. • The other four men in the photo spread had long hair or facial hair or both. Skillern could not identify Graham from the photo spread, but did tell police that the photo of Graham resembled the suspect, but the person she saw had a “thinner face and a darker complexion.” • The following day, Skillern viewed a live line-up. • Again, Graham was the only person to meet the general characteristics of the shooter. • She picked out Graham from the line up, telling police she recognized him from the photo spread the day before. • The police told her that he was their suspect too.
Was prosecutorial misconduct an issue?	<ul style="list-style-type: none"> • The prosecutor waved Graham’s .22 caliber pistol in front of the jury giving the false impression that Graham’s gun was the murder weapon. • During the appellate process, the prosecutor’s office failed to turn over discovery material to the appellate attorneys in a timely manner which prevented them from arguing key issues in their appeals. • The Harris County District Attorney stated on national television that 33 courts had reviewed the merits of the case and found that the other eyewitnesses were not credible. This was not true.
Appellate counsel	<p>Richard Burr, Jack Zimmermann, Mandy Welch, Doug O’Brien and the now defunct Texas Resource Center.</p>

Richard Wayne Jones (TX)

DEFENDANT'S INFORMATION	
Defendant's Name	Richard Wayne Jones
Date of Birth	April 9, 1960
Defendant's Race	White
Criminal History	Runaway as a juvenile; burglary and theft: served 2 yr. 4 mo; paroled in 1981; 1983 aggravated robbery; paroled in 1985
Execution' Date	August 22, 2000
TDCJ Number	
Age at the time of crime	26
Age at the time of execution	40
THE CRIME	
Date of Crime	Feb. 19, 1986
County	Tarrant
Victim(s)	Tammy Livingston
Race of Victim(s)	White
Relationship to Defendant	None
Offense Alleged	Capital murder
Factual summary of allegations	Victim abducted, stabbed 19 times, body nude but no sexual assault, field set on fire, body burned; robbed: credit cards, checks, car
THE TRIAL	
County where tried	Tarrant
Trial Judge	CC "Kit" Cook
Prosecutor(s)	Sharon Wilson, Scott Wise, Brent Carr
Defense Attorney(s)	Jack Strickland, Bill Lane
Plea	Not guilty
Racial Makeup of Jury	
Convicted of (statute)	Capital murder
Confession?	Coerced: confessed after he and his pregnant girlfriend were threatened with the death penalty
Accomplice(s)	Walt Sellers and Brenda Jones Ashmore (Richard's sister)
Eyewitness(es)	Ruthie Amato and 2 teenage daughters; Robert Speights (heard screams from crime scene)
Scientific Evidence	A lot of blood around body indicating she was killed in field; a few spots of blood on leg of jeans of Jones; Jones' fingerprint in car; fingerprints and hair samples at crime scene—never tested
Jail House Snitch?	On Sellers: several witnesses said he confessed, some from jail
Defendant Testimony?	Yes; shackled in court
Exculpatory Evidence Offered?	No, but Jones kept silent to protect sister. He knew Walt Sellers did the murder and eventually stated this
Additional Punishment evidence by State	
Mitigating Evidence by Defense	No psychiatric investigation Indication of cognitive dysfunction ADHD-hyperactive Abusive family-drinking, beatings Started running away at 8 Mostly raised in state schools Two suicide attempts Last state school closed for brutality shortly after he left

Mental Retardation, Mental Illness, and/or neurological damage?	Borderline retardation: IQ of 75, 3 rd grade level
Sentencing Date	July 24, 1987
	DIRECT APPEAL COURT OF CRIMINAL APPEALS
States appellate attorney	
Defendant's appellate attorney	
Date appellate brief filed	
Grounds Raised	
Date of opinion	April 29, 1992
Opinion citation	Affirmed conviction: Jones v State 843 S.W. 2 nd 487
Cert to S. Ct?	
	STATE WRIT OF HABEAS CORPUS
Writ Attorney	1 st : Strickland, Butcher, Lamoreaux; 2 nd : William Harris (Ft. Worth) and Rob Owen (Austin)
Appointed, retained or volunteer?	Appointed
Grounds Alleged	Coerced confession, physical evidence doesn't support conviction, real killer known, need for DNA testing
Cert to S.Ct.?	February 2, 1993; denied April 19, 1993

Frank Basil McFarland (TX)

DEFENDANT' S INFORMATION	
Defendant' s Name	FRANK BASIL McFARLAND
Date of Birth	October 7, 1963
Defendant' s Race	White
Criminal History	juvenile offense of sexual assault
Execution Date	April 29, 1998
TDCJ Number	963
Age - time of crime	24
Age - time of execution	34
THE CRIME	
Date of Crime	02/01/88
County	Tarrant County (Northeast)
Victim(s)	Terry Hokanson
Race of Victim(s)	White
Relationship to Defendant	N/A –met her in a topless club, he was a patron, she was a shoe shine girl.
Offense Alleged	capital murder in the course of committing aggravated sexual assault.
Actual Allegations	<ul style="list-style-type: none"> • Intentionally causing the death of Terry Hokanson by stabbing her in the course of committing the offense of aggravated sexual assault. • Met Hokanson at a topless bar and arranged to meet her to party afterwards. • Along with Michael Wilson, McFarland took her in his truck to Hurst Park where she was raped and stabbed 43 times and then left to die behind a church under construction.
THE TRIAL	
County where tried	Tarrant county –commenced October 26, 1989, verdict November 13, 1989
Trial Judge	Hon. Don Leonard, Judge Presiding, Criminal District Court # 3, Tarrant County, Texas, 76196
Prosecutor(s) (name, address and telephone)	Clair Theodore and Ken Dies –Assistant US DA's, Southern District of Texas, 910 Travis, Suite 1500, Houston, Texas.
Defense Attorney(s) (name, address, and telephone)	Hon. Tolly Wilson, 112 North Beach, Fort Worth, Texas, 76111Sharen Wilson, 400 The Professional Building, 303 West 10 th St, Fort Worth, Texas, 76102
Plea	Not Guilty
Racial Makeup of Jury	?
Convicted of (statute)	capital murder –TX. Pen. Code. Ann. s.19.03 (a) (2)
Confession?	<p>No.</p> <ul style="list-style-type: none"> • Testimony of Revill – Wilson's girlfriend re: confession by Wilson implicating McFarland. Suggestion this testimony could have been due to a deal with the authorities re: Revill's illegal immigrant status. • Before Wilson's funeral Detectives Blue and Teague had a telephone conference with Revill during which she did not implicate Wilson or McFarland. • Investigator Craig Teague admitted Revill's status as an illegal immigrant was discussed when a videotape of her story re: Wilson's alleged confession was made. • Alleged confession of Wilson to Mark Leonard Noblett re: Wilson and McFarland stabbing a woman in a church parking lot.
Accomplice(s)	Wilson –later murdered before McFarland's trial

Eyewitness(es)	not specifically BUT <ul style="list-style-type: none"> • Angela Autrey – saw victim leave club with 2 men. • Cheryl Kepp – owner of club saw Victim leave with two men, one of whom she said was Timothy Todd Tickle. • Warren, Mires and Rich – three boys who saw white car with red roof drive away and then saw Victim before she died.
Scientific Evidence	<ul style="list-style-type: none"> • Special Agent Blythe – FBI’s Microscopic Analysis Unit – analyzed the hair samples found in the victim’s hands and found that they were not consistent with the known hairs of Wilson/McFarland. • Testimony that the DNA from semen found on the victim matched McFarland’s semen, but 6% of the Caucasian population would also have the same characteristics. • Evidence that McFarland had hair on the back seat of his car which matched the rabbit hair coat worn by victim – but McFarland’s girlfriend had a rabbit hair coat she had previously worn in the truck.
Jail House Snitch?	NO –but police informant– Mark Noblett testified against McFarland(worked as police informant in other cases)
Defendant Testimony?	Defense presented no testimony or evidence
Exculpatory Evidence Offered?	None
Additional Punishment evidence by State	Witnesses testified about McFarland’s bad character which should have been inadmissible in guilt phase of trial
Mitigating Evidence by Defense	<ul style="list-style-type: none"> • Suzie Weber – testified she lived with McFarland since 1986 and never had any serious problems. • No legal consequences to McFarland as a result of attack on Ruth McGuire –Juvenile offense.
Mental Retardation, Mental Illness, and/or neurological damage?	None
Sentencing Date:	November 15,1989 – Jury decided. November 27, 1989 – sentence passed.
	DIRECT APPEAL TO COURT OF CRIMINAL APPEALS
State’ s appellate attorney	Defense appeal cites Ken Dies and Clair Theodore – BUT State’s reply is done by: Tim Curry, C. Chris Marshall and Edward L. Wilkinson of The Office of the Criminal D. A. Tarrant County, Texas, 76196
Defendant’ Attorney	Jack V. Strickland and Michael Logan Ware, The Bryce Building, 909 Throckmorton St., Fort Worth, Texas 76102, Telephone: 817-338-1000.
Date appellate brief filed	Nov. 13, 1991
Grounds Raised	No innocence claim, but note failure to put on mitigating evidence.
Date of opinion	September 23, 1992 –opinion by Campbell J. Overstreet and Benavides JJ concur Clinton J dissents Baird J not participating.
Opinion citation	McFarland v. State, 845 F.2d 824 (1992)
Cert to S. Ct?	Denied petition for writ of certiorari – June 7, 1993

	STATE WRIT OF HABEAS CORPUS
Writ Attorney (name address & telephone)	Danny D. Burns -115 North Henderson St., Fort Worth, Texas 76102, Tel: 817-870-1544
Appointed, retained or volunteer?	Appointed
Grounds for Alleged Ineffective Assistance of Counsel.	<p>Need for further discovery and investigation:</p> <ul style="list-style-type: none"> • Prosecution's suppression of exculpatory evidence and subordination of perjured testimony. • Failure to preserve meritorious claim re: hearsay testimony • Failure to object to prosecution's use of applicant's post-arrest silence. • Objection to State innuendo that McFarland was involved with Wilson's murder • Possibility one of State's witnesses – BAKER – was offered deals by the State on his theft case (pending at time of McFarland's trial) in return for his testimony against McFarland • Prosecution didn't make statements of Rich and Mires available to defense (although Warrant was given) • Police Officer Oringderff who took statements from dying victim did not testify at trial even though he was available to do so. • Another witness – PARSONS – who also worked at club later identified the two men seen on the night of the murder and got boss to card them – one of them was Timothy Todd Tickle. • Meyers – police officer on the crime scene omitted to put in report boy's apparent mention of "blue" car, and said boys didn't refer to white thunderbird with red top – (referred to in boys statements) • Timothy Todd Tickle testified he didn't know victim – but was at the club on the night of the murder.
Writ Judge	Don Leonard District #3, Tarrant County, TX
Date of Decision	November 15, 1995 – denied first Writ of habeas corpus; April 29, 1998 –denied; Second Writ of habeas corpus
Decision	Denied
Cert to S.Ct.?	Yes – filed Feb. 13, 1996 – placed on docket Feb 21 st 1996 – denied April 29 1996.
	NEW EVIDENCE OF INNOCENCE
Developed by:	Defense counsel and Texas Resource Center
Presented to:	TX C.C.A.
Summary:	<p>Case based on:</p> <ul style="list-style-type: none"> • Hearsay evidence – alleged statements of a dead man • Circumstantial evidence • DNA evidence which only limited semen donor to 6% of the Caucasian population. <p>Post-trial investigation</p> <ul style="list-style-type: none"> • Revealed Noblett (prosecution star witness) offered perjured testimony about Wilson pointing a gun at him.

	<ul style="list-style-type: none">• State suppressed Noblett’s history as police “snitch” and Noblett’s criminal history.• York – man present in motel room at time of alleged confession by Wilson to Noblett could have testified as to his lack of knowledge of it.• Victim stated she hadn’t met assailants before and evidence that she already knew McFarland and Wilson.• Sworn statements from Mires and Rich were not given to Defense – that victim said she didn’t know guys who killed her and she got in the car and took off – not that she met them at a club. “She thought she recognized them” were her words – not “she thought she <i>knew</i> them.” Suggests mistaken identity – statements are exculpatory and refute states theory of the case.• Constitutional obligation and Brady violation by prosecution for not disclosing these statements.• Boys (Warran, Mires and Rich) could also have testified they saw a white (not a blue) car at the crime scene. (not a blue car – McFarland’s car was blue and the prosecution’s theory of the case involved a blue car)• No evidence the boys ever said they saw a blue car – perjured testimony of PO (previously mentioned)• Applicant’s girlfriend owned a rabbit hair jacket that could have explained the presence of rabbit hair in McFarland’s car
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Roger Keith Coleman (VA)

Name/DOC #	Roger Keith Coleman
Address	Grew up in Grundy, Buchanan County, VA; resided there at time of crime. Executed at Virginia's Greensville Penitentiary
Date of Birth	November 1, 1958
Race	White
Date of Crime	March 10, 1981
Age Time of Crime	22
Date Sentenced	April 23, 1982
Victims	Wanda Fay McCoy
Race of Victims	White
Relationship to Defendant	Sister-in-law: Roger Coleman was married to victim's sister at time of crime.
Facts Alleged by State	Coleman was allegedly admitted to victim's home, where he allegedly attacked her, raped her, sodomized her, and cut her throat, thus causing her death.
County of Trial	Buchanan County, VA
Trial Judge	Buchanan County circuit judge Nicholas Persin
Trial Attorney	Terry Jordan and Steven Are
Prosecutors	Commonwealth's Attorney (prosecutor) Michael G. "Mickey" McGlothlin, assisted by Tom Scott, private practitioner
Trial By	Jury
Race of Jurors	
Convicted of	Rape and capital murder
Confession	No
Accomplice Testimony	No accomplice testimony; no accomplice found or named
Eyewitness Testimony	No witnesses
Forensic Testimony	<ul style="list-style-type: none"> • Two hairs recovered from the victim's body were said to be "unlikely" to have come from anyone but Mr. Coleman. • Semen samples recovered from the victim's body were of same blood type as Mr. Coleman. Blood on Mr. Coleman's pants was of same type as victim. • Blood and semen samples were not subjected to all available tests. • Subsequent DNA analysis of samples supported original matchups; dispute continues over further testing of remaining samples with newly improved DNA analysis, with state opposing further tests. • Soil on Ms. McCoy's hands, sleeves, legs, was never compared to soil around house: Thus, chance was missed to challenge prosecution theory of attack inside house by person known to victim. • Fingerprint on front door was apparently never analyzed; this may have meant losing a chance to identify intruder(s). • Wounds in victim's chest were said to have been made by Coleman's pocketknife. • Other experts challenge state's analysis of wounds as insufficient to establish link.
Jailhouse Snitch	<p>Yes:</p> <ul style="list-style-type: none"> • Roger Matney, a convicted felon awaiting sentencing in Buchanan County Jail when Coleman was held there following his arrest, testified that Coleman had confessed to him. • In Matney's account, Coleman reported visiting McCoy's house with another man, where the other man attacked her and both the other man and Coleman raped her. • Matney's allegations that Coleman reported having sketched the murder scene, and that a weapon was discarded under a bridge, were apparently never followed up for

	verification.
Defendant Testimony	Yes: Coleman denied involvement in the crime and denied having "confessed" to Roger Matney. He recounted his whereabouts the night of the crime.
Principal Exculpatory Evidence	<ul style="list-style-type: none"> • Well-supported alibis. Coleman had gone to work at the coal mine the evening of the crime, found that his entire shift had been laid off unexpectedly, and spoken with several acquaintances and co-workers before returning home. • DNA testing shows involvement of two assailants, and other assailant never identified. • Unexplained physical evidence does not fit into prosecution theory that Coleman was willingly admitted to house and attacked McCoy inside.
Sentencing Authority	Jury; judge had authority to overturn sentence in favor of life term.
Statutory Aggravating Factor	<ul style="list-style-type: none"> • Virginia death sentences require finding by jury that defendant's likely future commission of violent acts constitutes a threat to society, • OR that murder in question was "outrageously or wantonly vile, horrible or inhuman, in that it involved torture, depravity of mind or aggravated battery to the victim." Coleman's jury found both conditions to obtain death sentence(based on prior felony conviction and on circumstances of McCoy killing).
Non-Statutory Aggravating Factor	
Mitigating Factors	Testimony on Coleman's recent religious conversion
Mental Illness, retardation or neurological damage	No
Criminal History	<ul style="list-style-type: none"> • Felony conviction for attempted rape in 1977. • State's case against Coleman in that case was based on victim's identification of Coleman's picture in high school yearbook. • High school superintendent, who knew Coleman personally, reported having been talking with Coleman elsewhere at time of attack.
Appellate History	<ul style="list-style-type: none"> • Original habeas corpus petition in state court was ruled to have been filed one day late. • Federal and state review of trial was therefore effectively denied, this denial being affirmed by U.S. Supreme Court. • New information discovered by Coleman's lawyers and by independent investigators was not heard.
Ineffective Assistance?	In his state and federal habeas corpus petitions, Coleman alleged ineffective legal counsel. His lawyers were inexperienced, and unfamiliar with the appropriate avenues of attack against the state's analysis and assessment of the physical evidence that was presented at trial.
Police Misconduct	
Prosecutorial Misconduct	Habeas corpus petition claimed trial flawed because state did not provide defense with exculpatory documents, including report of pry mark on front door molding, and the report of police interviews with a couple who had seen Coleman the night of the crime.
Appellate Counsel	Kitty Behan, Arnold & Porter, Washington, D.C.; Johnny Farmer, Norton, Virginia; John Hall, Debevoise & Plimpton, New York City. The work of Jim McCloskey, an investigator with Centurion Ministries of Princeton, New Jersey, was also central to Mr. Coleman's appeals efforts.